

October 1, 2013

Commission's Secretary
Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

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Re: WC Docket No. 06-210
CCB/CPD 96-20

**PETITIONERS SUPPLEMENTAL SUBMISSION IN
FURTHER SUPPORT OF ITS POSITION THAT THE PERMISSIBILITY OF
APPLYING CHARGES AGAINST END-USERS WAS NOT PERMISSIBLE.**

AT&T is taking the position that its shortfall and termination communication services true-up charges were permissible in being applied under AT&T's interpretation of the tariff's Pre June 17th 1994 restructuring rules.

However if the charges were permissible why didn't federal excise taxes get applied by AT&T against the shortfall and termination charges as AT&T did for Florida?

Attached is a phone bill of an actual end-user in June of 1996 when AT&T applied its shortfall and termination true-up charges on the end-users bills.

There is a \$66.02 monthly usage and it received the discount plans 20% discount of \$13.21 to net \$52.81. There was also an additional tariffed yearly true-up charge added in the amount of \$3,959.03.

The example bill shows that there are several Florida State gross receipts taxes of \$289.46 and \$1.86 and \$63.54 and \$39.67 that were properly applied on both the \$52.81 usage and the \$3,959.03 tariffed true-up communication service charge.

AT&T properly applied the taxes on the shortfall and termination “true-up communication services charges” for only Florida.

Notice on the phone bill there is a federal excise tax of only \$2.23; as AT&T applied the federal excise taxes only on the \$52.81 usage, not the \$3,959.03 tariffed true-up communication service charges.

The federal telephone excise tax is a statutory federal [excise tax](#) imposed under the [Internal Revenue Code](#) in the United States under [26 U.S.C. § 4251](#) on amounts paid for "communications services."

The [tax](#) was to be imposed on the person paying for the communications services (such as a customer of a telephone company) but, under [26 U.S.C. § 4291](#), is collected from the customer by the "person receiving any payment for facilities or services" on which the tax is imposed (i.e., is collected by the telephone company, which files a quarterly Form 720 excise return and forwards the tax to the [Internal Revenue Service](#)).

**The following are Exemptions to Collecting and Remitting
the Federal Excise Tax and AT&T does Not meet any of them:**

29.202 General exemptions.

No Federal manufacturers' or special-fuels excise taxes are imposed in many contracting situations as, for example, when the supplies are for any of the following:

- (a) The exclusive use of any State or political subdivision, including the District of Columbia ([26 U.S.C. 4041](#) and 4221).
- (b) Shipment for export to a foreign country or an outlying area of the United States. Shipment must occur within 6 months of the time title passes to the Government. When the exemption is claimed, the words “for export” must appear on the contract or purchase document, and the contracting officer must furnish the seller proof of export (see 26 CFR 48.4221-3).
- (c) Further manufacture, or resale for further manufacture (this exemption does not include tires and inner tubes) (26 CFR 48.4221-2).
- (d) Use as fuel supplies, ships or sea stores, or legitimate equipment on vessels of war, including (1) aircraft owned by the United States and constituting a part of the armed forces and (2) guided missiles and pilotless aircraft owned or chartered by the United States. When this exemption is to be claimed, the purchase should be made on a tax-exclusive basis. The contracting officer shall furnish the seller an exemption certificate for Supplies for Vessels of War (an example is given in 26 CFR 48.4221-4(d)(2); the IRS will accept one certificate covering all orders

under a single contract for a specified period of up to 12 calendar quarters) ([26 U.S.C. 4041](#) and [4221](#)).

(e) A nonprofit educational organization ([26 U.S.C. 4041](#) and [4221](#)).

(f) Emergency vehicles ([26 U.S.C. 4053](#) and [4064\(b\)\(1\)\(c\)](#)).

29.203 Other Federal tax exemptions.

(a) Pursuant to [26 U.S.C. 4293](#), the Secretary of the Treasury has exempted the United States from the communications excise tax imposed in [26 U.S.C. 4251](#), when the supplies and services are for the exclusive use of the United States. (Secretarial Authorization, June 20, 1947, Internal Revenue Cumulative Bulletin, 1947-1, 205.)

(b) Pursuant to [26 U.S.C. 4483\(b\)](#), the Secretary of the Treasury has exempted the United States from the federal highway vehicle users tax imposed in [26 U.S.C. 4481](#). The exemption applies whether the vehicle is owned or leased by the United States. (Secretarial Authorization, Internal Revenue Cumulative Bulletin, 1956-2, 1369.)

Did AT&T believe that it should not have applied the true-up charges under the tariffs restructuring rules in the first place? Hence AT&T did not apply many millions of dollars in federal excise taxes so it would not have to remit the taxes to Uncle Sam? AT&T please explain this situation.

Respectfully Submitted,

One Stop Financial, Inc
Winback & Conserve Program, Inc.
Group Discounts, Inc.
800 Discounts, Inc

/s/ Al Inga
Al Inga President